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10/773,064

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EXAMINER

SMITH, SHEILA B

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/773,064	<b>Applicant(s)</b> ROBINSON ET AL.	
	<b>Examiner</b> SHEILA B. SMITH	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-11, 15-22, 26-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-11, 15-22 and 26-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                            | 6) <input type="checkbox"/> Other: _____                          |

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**DETAILED ACTION*****Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 5-11, 16-22, 27-34, 36, 38 are rejected on the ground of nonstatutory

obviousness-type double patenting as being unpatentable over claims 1-16, 18-24 of U.S. Patent

No. 6,760,580. Although the conflicting claims are not identical, they are not patentably distinct

from each other as shown from the comparison table below.

<b>U.S Patent 6,760,580</b>	<b>Instant Application 10/773064</b>	
Claim 1	Claim 34	
1. <b>A method of</b> facilitating instant messaging outside of a user-defined buddy group, comprising the steps of:	34. A method of facilitating messaging between <u>a mobile device and a user</u> , the method comprising steps of:	The US Patent refers to messaging outside of a user-defined buddy group, which can be read on the mobile device.  The US Patent refers to exchanging and instant

<p><b>providing</b> a plurality of reserved routing codes for exchanging instant messages with <u>users not included in said user-defined buddy group</u>;</p> <p><b>exchanging</b> instant messages between a user of a mobile unit device and a second user, said second user not included in said mobile user's buddy group;</p> <p><b>assigning</b> one of said routing codes to a message directed to said second user by said mobile unit user;</p> <p>and <b>temporarily assigning</b> one of said routing codes to said second user's personal</p>	<p>providing a plurality of reserved routing codes for exchanging messages between <u>users and mobile devices</u>;</p> <p><u>in response to receiving a message</u> from the user directed to the mobile device, including the temporarily associated, routing code in the message as a reply address;</p> <p><u>temporarily associating one of the routing codes</u> with the user; <u>and replying to said received message</u> user by</p>	<p>message between the user and the mobile which is the same as responding to a message from a user directed to the mobile.</p> <p>The reference states that by temporarily assigning a routing code the mobile user can easily reply to the message which is the same as using the reply function on the mobile unit.</p> <p>The US Patent refers to messaging outside of a user-defined buddy group, which can be read on the mobile device.</p> <p>Again the reference refers to messaging outside of a user-defined buddy group, which can be read on the mobile device.</p> <p>Given the reference refers to exchanging and instant message between the user and the mobile, that is the same as responding to a message from a user directed to the mobile.</p> <p>Again the reference states that by temporarily assigning a routing code the mobile user can easily reply to the message which is the same as using the reply function on the mobile unit.</p>
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identifier so that said mobile user can easily reply to said second user without originating a new message.	<u>means of a "reply" function on said mobile unit.</u>	
Claim 9	Claim 36	
<p><b>9. A computer program product</b>, said computer program product comprising a tangible medium with computer-readable code embodied thereon, said computer-readable code including code means for performing the steps of a method for facilitating <u>instant messaging outside of a user-defined buddy group</u>; the method comprising the steps of:</p> <p><b>providing</b> a plurality of</p>	<p>36. A computer program product, said computer program product comprising a tangible medium with computer-readable code embodied thereon said computer-readable code including code means for performing the steps of a method of <u>facilitating messaging between a mobile device and a user</u> the method comprising the steps of:</p> <p>providing a plurality of reserved routing codes for</p>	

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<p>reserved routing codes for exchanging instant messages <u>with users not included in said user-defined buddy group;</u></p> <p><b><u>exchanging</u></b> instant messages <u>between a user of a mobile unit device and a second user,</u> said second user not included in said mobile user's buddy group;</p> <p><b><u>assigning</u></b> one of said routing codes to a message directed to said second user by said mobile unit user; and <u>temporarily assigning one of said routing codes to said second user's personal identifier so that said mobile user can easily reply to said second user without</u></p>	<p>exchanging messages <u>between users and mobile devices;</u></p> <p><u>in response to receiving a message from the user directed to the mobile device,</u> temporarily associating one of the routing codes with the user;</p> <p>including the <u>temporarily associated routing code in the message as a reply address;</u> and <u>transmitting the message with: the included temporarily associated routing codes to the mobile device.</u></p>	
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<u>originating a new message.</u>		
Claim 17	Claim 38	
<p>1. <b>A apparatus for</b> facilitating instant messaging outside of a user-defined buddy group, comprising the steps of:</p> <p><b>providing</b> a plurality of reserved routing codes for exchanging instant messages with <u>users not included in said user-defined buddy group</u>;</p> <p><b>exchanging</b> instant messages between a user of a mobile unit device and a second user, said second user not included in said mobile user's buddy group;</p> <p><b>assigning</b> one of said routing</p>	<p>38. A apparatus for facilitating messaging between <u>a mobile device and a user</u>, the method comprising steps of:</p> <p>providing a plurality of reserved routing codes for exchanging messages between <u>users and mobile devices</u>;</p> <p><u>in response to receiving a message</u> from the user directed to the mobile device, including the temporarily associated, routing code in the message as a reply address;</p>	<p>While the referenced US Patent refers to a method, inherently a apparatus implements the messaging between a mobile device and a user</p> <p>The US Patent refers to exchanging and instant message between the user and the mobile which is the same as responding to a message from a user directed to the mobile.</p>

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<p>codes to a message directed to said second user by said mobile unit user;</p> <p>and <b>temporarily assigning</b> one of said routing codes to said second user's personal identifier so that said mobile user can easily reply to said second user without originating a new message.</p>	<p><u>temporarily associating one of the routing codes with the user; and replying to said received message user by means of a "reply" function on said mobile unit.</u></p>	<p>The reference states that by temporarily assigning a routing code the mobile user can easily reply to the message which is the same as using the reply function on the mobile unit.</p>
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**Regarding claim 4** of the instant application, this claim corresponds to claim 1 of intervening application 6,760,580.

**Regarding claim 5** of the instant application, this claim corresponds to claim 2 of intervening application 6,760,580.

**Regarding claim 6** of the instant application, this claim corresponds to claim 3 of intervening application 6,760,580.

**Regarding claim 7** of the instant application, this claim corresponds to claim 4 of intervening application 6,760,580.



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**Regarding claim 8** of the instant application, this claim corresponds to claim 5 of intervening application 6,760,580.

**Regarding claim 9** of the instant application, this claim corresponds to claim 6 of intervening application 6,760,580.

**Regarding claim 10** of the instant application, this claim corresponds to claim 7 of intervening application 6,760,580.

**Regarding claim 11** of the instant application, this claim corresponds to claim 8 of intervening application 6,760,580.

**Regarding claim 15** of the instant application, this claim corresponds to claim 9 of intervening application 6,760,580.

**Regarding claim 16** of the instant application, this claim corresponds to claim 10 of intervening application 6,760,580.

**Regarding claim 17** of the instant application, this claim corresponds to claim 11 of intervening application 6,760,580.

**Regarding claim 18** of the instant application, this claim corresponds to claim 12 of intervening application 6,760,580.

**Regarding claim 19** of the instant application, this claim corresponds to claim 13 of intervening application 6,760,580.

**Regarding claim 20** of the instant application, this claim corresponds to claim 14 of intervening application 6,760,580.

**Regarding claim 21** of the instant application, this claim corresponds to claim 15 of intervening application 6,760,580.

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**Regarding claim 22** of the instant application, this claim corresponds to claim 16 of intervening application 6,760,580.

**Regarding claim 27** of the instant application, this claim corresponds to claim 18 of intervening application 6,760,580.

**Regarding claim 28** of the instant application, this claim corresponds to claim 19 of intervening application 6,760,580.

**Regarding claim 29** of the instant application, this claim corresponds to claim 20 of intervening application 6,760,580.

**Regarding claim 30** of the instant application, this claim corresponds to claim 21 of intervening application 6,760,580.

**Regarding claim 31** of the instant application, this claim corresponds to claim 22 of intervening application 6,760,580.

**Regarding claim 32** of the instant application, this claim corresponds to claim 23 of intervening application 6,760,580.

**Regarding claim 33** of the instant application, this claim corresponds to claim 24 of intervening application 6,760,580.

**Regarding claim 34** of the instant application, this claim corresponds to claim 1 of intervening application 6,760,580.

**Regarding claim 36** of the instant application, this claim corresponds to claim 9 of intervening application 6,760,580.

**Regarding claim 38** of the instant application, this claim corresponds to claim 1 of intervening application 6,760,580.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-11, 15-22, 26-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the term "user" is unclear, vague and indefinite the examiner is not clear if the applicant is referencing to facilitating messaging between a mobile device and himself (user), or a mobile device and (user) another device somewhere else or exactly what is meant by "user".

5. Claims 11, 22, 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the term "interest" is unclear, vague and indefinite the examiner is not clear if the applicant is referencing to; is it that the mobile user refuses to except the message and does not open it, or is away and can not open it, or is it that the mobile is not logged on an can not receive it.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15-19, 21, 22, 36,37 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. "A computer program product" which according to the applicant description in the specification on page 21 in lines 20-23 "The invention is embodied as a method, an apparatus and a computer program product. Implementation of the invention is accomplished by means of conventional methods of computer programming using one or more commonly known programming languages" which is nothing more than a program.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 34, 35, 7, 8, 10, 36, 37, 18, 19, 21, 38, 39, 29, 30, 32 are rejected under 35

U.S.C. 102(e) as being anticipated by Holmes et al. (U.S. Patent Number 6,134,432)

***Regarding claim 34***, Holmes et al. discloses as best understood by the examiner in view of the 112 rejection a facilitating messaging between a mobile device and a user, the method comprising steps of: providing a plurality of reserved routing codes (which reads on MSISDN) for exchanging messages between users and mobile devices (which reads on column 5 lines 46-48); in response to receiving a message from the user directed to the mobile device, temporarily

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associating one of the routing codes with the user (which reads on column 5 lines 48-50); including the temporarily associated routing code in the message as a reply address (which reads on column 5 lines 48-50); and transmitting the message with the included temporarily associated routing code to the mobile device (which reads on column 5 lines 2-15).

***Regarding claim 35,*** Holmes et al. discloses everything claimed, as applied above (see claims 34 ) additionally, Holmes et al. discloses a receiving a reply message from the mobile device directed to the temporarily associated routing code; and transmitting the reply message to the user (which reads on column 5 lines 2-11).

***Regarding claim 7,*** Holmes et al. discloses everything claimed, as applied above (see claims 35 ) additionally, Holmes et al. discloses a step of exchanging messages comprises steps of: receiving a message at said mobile unit from said second user, wherein said second user's personal identifier has previously been associated with a second routing code; and replying to said received message by said mobile user by means of an automated `reply` function on said mobile unit (which reads on column 5 lines 2-11).

***Regarding claim 8,*** Holmes et al. discloses everything claimed, as applied above (see claims 35 ) additionally, Holmes et al. discloses a assignment of a routing code to said second user persists for the duration of a user session (which reads on “This temporary MSISDN is stored with the source address of the internet mail, and is used if the message is replied to” as disclosed in column 5 lines 56-57).

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**Regarding claim 10**, Holmes et al. discloses everything claimed, as applied above (see claims 35 ) additionally, Holmes et al. discloses a step of: preventing occurrence of a condition wherein different second users are associated with the same routing code (which reads on “The gateway 101 assigns a new temporary MSISDN for the life of the message” as disclosed in column 5 lines 56-57).

**Regarding claim 36**, Holmes et al. discloses as best understood by the examiner in view of the 112 rejection a computer program product said computer program product comprising a tangible medium with computer-readable code embodied thereon said computer-readable code (which reads on column 2 lines 55-64) including code means for performing the steps of a method of facilitating messaging between a mobile device and a user, the method comprising steps of: providing a plurality of reserved routing codes (which reads on MSISDN) for exchanging messages between users and mobile devices (which reads on column 5 lines 46-48); in response to receiving a message from the user directed to the mobile device, temporarily associating one of the routing codes with the user (which reads on column 5 lines 48-50); including the temporarily associated routing code in the message as a reply address (which reads on column 5 lines 48-50); and transmitting the message with the included temporarily associated routing code to the mobile device (which reads on column 5 lines 2-15).

**Regarding claim 37**, Holmes et al. discloses all the claimed invention as applied above see claim 36, also Holmes et al. discloses a computer program product (which reads on column 5 lines 55-64) of comprising: receiving a reply message from the mobile device directed to the

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temporarily associated routing code; and transmitting the reply message to the user (which reads on column 5 lines 2-11).

***Regarding claim 18,*** Holmes et al. discloses a computer program product and everything claimed, as applied above (see claims 37 ) additionally, Holmes et al. discloses a step of exchanging messages comprises steps of: receiving a message at said mobile unit from said second user, wherein said second user's personal identifier has previously been associated with a second routing code; and replying to said received message by said mobile user by means of an automated `reply` function on said mobile unit (which reads on column 5 lines 2-11).

***Regarding claim 19,*** Holmes et al. discloses a computer program product and everything claimed, as applied above (see claims 37 ) additionally, Holmes et al. discloses a assignment of a routing code to said second user persists for the duration of a user session (which reads on “This temporary MSISDN is stored with the source address of the internet mail, and is used if the message is replied to” as disclosed in column 5 lines 56-57).

***Regarding claim 21,*** Holmes et al. discloses a computer program product and everything claimed, as applied above (see claims 37 ) additionally, Holmes et al. discloses a step of: preventing occurrence of a condition wherein different second users are associated with the same routing code (which reads on “The gateway 101 assigns a new temporary MSISDN for the life of the message” as disclosed in column 5 lines 56-57).

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**Regarding claim 38**, Holmes et al. discloses as best understood by the examiner in view of the 112 rejection a apparatus for facilitating messaging between a mobile device and a user, the method comprising steps of: providing a plurality of reserved routing codes (which reads on MSISDN) for exchanging messages between users and mobile devices (which reads on column 5 lines 46-48); in response to receiving a message from the user directed to the mobile device, temporarily associating one of the routing codes with the user (which reads on column 5 lines 48-50); including the temporarily associated routing code in the message as a reply address (which reads on column 5 lines 48-50); and transmitting the message with the included temporarily associated routing code to the mobile device (which reads on column 5 lines 2-15).

**Regarding claim 39**, Holmes et al. discloses all the claimed invention as applied above see claim 38, also Holmes et al. discloses a apparatus (which reads on column 5 lines 55-64) of comprising: receiving a reply message from the mobile device directed to the temporarily associated routing code; and transmitting the reply message to the user ((which reads on column 5 lines 2-11).

**Regarding claim 29**, Holmes et al. discloses a apparatus and everything claimed, as applied above (see claims 39 ) additionally, Holmes et al. discloses a step of exchanging messages comprises steps of: receiving a message at said mobile unit from said second user, wherein said second user's personal identifier has previously been associated with a second routing code; and replying to said received message by said mobile user by means of an automated `reply` function on said mobile unit (which reads on column 5 lines 2-11).



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**Regarding claim 30**, Holmes et al. discloses a apparatus and everything claimed, as applied above (see claims 39 ) additionally, Holmes et al. discloses a assignment of a routing code to said second user persists for the duration of a user session (which reads on “This temporary MSISDN is stored with the source address of the internet mail, and is used if the message is replied to” as disclosed in column 5 lines 56-57).

**Regarding claim 32**, Holmes et al. discloses a apparatus and everything claimed, as applied above (see claims 39 ) additionally, Holmes et al. discloses a step of: preventing occurrence of a condition wherein different second users are associated with the same routing code (which reads on “The gateway 101 assigns a new temporary MSISDN for the life of the message” as disclosed in column 5 lines 56-57).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4-6, 15-17, 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes in view of Ogle (U.S. Patent Number 6,430,604).

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**Regarding claim 4**, Holmes et al. discloses everything claimed, as applied above (see claims 35 ) however, Holmes et al. fails to specifically disclose a messages comprise instant messages.

In the same field of endeavor Ogle et al. discloses a method, system, and computer program product for enabling messaging systems to use alternative message delivery mechanisms. Additionally, Ogle et al. discloses the use of instant messages (which reads on column 2 lines 60-67 and column 3 lines 1-30).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with the use of instant message as taught by Ogle et al. for the purpose of providing for a alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.

**Regarding claim 5**, Holmes et al. discloses everything claimed, as applied above (see claims 35 ) additionally, Holmes et al. discloses step of temporarily associating one of the routing codes with the user comprises the steps of: composing a message for the user at said mobile device, said message including at least said user's personal identifier in body of said message (which reads on column 5 lines 15-19); sending said message to a routing code assigned to an "unlisted function on said. mobile device (which reads on column 5 lines 20-25); receiving a message (which reads on column 5 lines 24-25); capturing said user's personal identifier by said messaging system (which reads on column 5 lines 30-33); assigning a routing code to said user's personal identifier (which reads on column 5 lines 33-36); .sending said message to said user (which reads on column 5 lines 36-38); and Optionally returning notice of said assignment

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to said mobile unit, so that future messaging is facilitated (which reads on column 5 lines 40-45).

However, Holmes et al. fails to specifically disclose the use of a instant message.

In the same field of endeavor Ogle et al. discloses a method, system, and computer program product for enabling messaging systems to use alternative message delivery mechanisms. Additionally, Ogle et al. discloses the use of instant messages (which reads on column 2 lines 43-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with the use of instant message as taught by Ogle et al. for the purpose of providing for a alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.

***Regarding claim 6,*** Holmes et al. discloses everything claimed, as applied above (see claims 35 ) additionally, Holmes et al. discloses a step of exchanging messages comprises steps of: sending a message to said mobile user by said second user (which reads on column 5 lines 20-25); receiving said message at said messaging system (which reads on column 5 lines 24-25); capturing said second user's personal identifier by an messaging system (which reads on column 5 lines 30-33); assigning a routing code to said second user's personal identifier; and sending said message to said mobile user (which reads on column 2 lines 36-38). However, Holmes et al. fails to specifically disclose the use of a instant message.

In the same field of endeavor Ogle et al. discloses a method, system, and computer program product for enabling messaging systems to use alternative message delivery

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mechanisms. Additionally, Ogle et al. discloses the use of instant messages (which reads on column 2 lines 43-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with the use of instant message as taught by Ogle et al. for the purpose of providing for a alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.

***Regarding claim 15,*** Holmes et al. discloses a computer program product and everything claimed, as applied above (see claims 37 ) however, Holmes et al. fails to specifically discloses a messages comprise instant messages.

In the same field of endeavor Ogle et al. discloses a method, system, and computer program product for enabling messaging systems to use alternative message delivery mechanisms. Additionally, Ogle et al. discloses the use of instant messages (which reads on column 2 lines 60-67 and column 3 lines 1-30).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with the use of instant message as taught by Ogle et al. for the purpose of providing for a alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.

***Regarding claim 16,*** Holmes et al. discloses a computer program product and everything claimed, as applied above (see claims 37 ) additionally, Holmes et al. discloses step of temporarily associating one of the routing codes with the user comprises the steps of: composing

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a message for the user at said mobile device, said message including at least said user's personal identifier in body of said message (which reads on column 5 lines 15-19); sending said message to a routing code assigned to an "unlisted function on said. mobile device (which reads on column 5 lines 20-25); receiving a message (which reads on column 5 lines 24-25); capturing said user's personal identifier by said messaging system (which reads on column 5 lines 30-33); assigning a routing code to said user's personal identifier (which reads on column 5 lines 33-36); .sending said message to said user (which reads on column 5 lines 36-38); and Optionally returning notice of said assignment to said mobile unit, so that future messaging is facilitated (which reads on column 5 lines 40-45). However, Holmes et al. fails to specifically disclose the use of a instant message.

In the same field of endeavor Ogle et al. discloses a method, system, and computer program product for enabling messaging systems to use alternative message delivery mechanisms. Additionally, Ogle et al. discloses the use of instant messages (which reads on column 2 lines 43-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with the use of instant message as taught by Ogle et al. for the purpose of providing for a alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.

**Regarding claim 17**, Holmes et al. discloses a computer program product and everything claimed, as applied above (see claims 37 ) additionally, Holmes et al. discloses a step of exchanging messages comprises steps of: sending a message to said mobile user by said second

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user (which reads on column 5 lines 20-25); receiving said message at said messaging system (which reads on column 5 lines 24-25); capturing said second user's personal identifier by an messaging system (which reads on column 5 lines 30-33); assigning a routing code to said second user's personal identifier; and sending said message to said mobile user (which reads on column 2 lines 36-38). However, Holmes et al. fails to specifically disclose the use of a instant message.

In the same field of endeavor Ogle et al. discloses a method, system, and computer program product for enabling messaging systems to use alternative message delivery mechanisms. Additionally, Ogle et al. discloses the use of instant messages (which reads on column 2 lines 43-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with the use of instant message as taught by Ogle et al. for the purpose of providing for a alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.

***Regarding claim 26***, Holmes et al. discloses a apparatus and everything claimed, as applied above (see claims 39 ) however, Holmes et al. fails to specifically discloses a messages comprise instant messages.

In the same field of endeavor Ogle et al. discloses a method, system, and computer program product for enabling messaging systems to use alternative message delivery mechanisms. Additionally, Ogle et al. discloses the use of instant messages (which reads on column 2 lines 60-67 and column 3 lines 1-30).

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Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with the use of instant message as taught by Ogle et al. for the purpose of providing for a alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.

***Regarding claim 27,*** Holmes et al. discloses a apparatus and everything claimed, as applied above (see claims 35 ) additionally, Holmes et al. discloses step of temporarily associating one of the routing codes with the user comprises the steps of: composing a message for the user at said mobile device, said message including at least said user's personal identifier in body of said message (which reads on column 5 lines 15-19); sending said message to a routing code assigned to an "unlisted function on said. mobile device (which reads on column 5 lines 20-25); receiving a message (which reads on column 5 lines 24-25); capturing said user's personal identifier by said messaging system (which reads on column 5 lines 30-33); assigning a routing code to said user's personal identifier (which reads on column 5 lines 33-36); .sending said message to said user (which reads on column 5 lines 36-38); and Optionally returning notice of said assignment to said mobile unit, so that future messaging is facilitated (which reads on column 5 lines 40-45). However, Holmes et al. fails to specifically disclose the use of a instant message.

In the same field of endeavor Ogle et al. discloses a method, system, and computer program product for enabling messaging systems to use alternative message delivery mechanisms. Additionally, Ogle et al. discloses the use of instant messages (which reads on column 2 lines 43-67).

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Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with the use of instant message as taught by Ogle et al. for the purpose of providing for a alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.

***Regarding claim 28***, Holmes et al. discloses a apparatus and everything claimed, as applied above (see claims 34 ) additionally, Holmes et al. discloses a step of exchanging messages comprises steps of: sending a message to said mobile user by said second user (which reads on column 5 lines 20-25); receiving said message at said messaging system (which reads on column 5 lines 24-25); capturing said second user's personal identifier by an messaging system (which reads on column 5 lines 30-33); assigning a routing code to said second user's personal identifier; and sending said message to said mobile user (which reads on column 2 lines 36-38). However, Holmes et al. fails to specifically disclose the use of a instant message.

In the same field of endeavor Ogle et al. discloses a method, system, and computer program product for enabling messaging systems to use alternative message delivery mechanisms. Additionally, Ogle et al. discloses the use of instant messages (which reads on column 2 lines 43-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with the use of instant message as taught by Ogle et al. for the purpose of providing for a alternative message delivery and receipt system that insures the availability of a user to send and receive messages to anyone regardless of where they may be.



11. Claims 9, 20, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes in view of MMPEP 2144.06.

**Regarding claim 9**, Holmes et al. everything claimed as applied above (see claim 35), however Holmes et al. fails to specifically disclose routing codes for assignment are recycled during a user session if the number of users exceeds the routing codes available.

The examiner contends, however that providing recycling of routing codes is well known in the art, the design of most systems would include a pool of temporary routing codes to be recycled so the system can account for any blocking probability, thereby reducing the need to provide a infinite number of routing codes for every device in the system, at the time of invention, it would have been obvious to one of ordinary skill in the art to modify Holmes with the teaching of well known art for making the system more efficient which is widely know to be used in the industry.

**Regarding claim 20**, Holmes et al. discloses a computer program product and everything claimed as applied above (see claim 37), however Holmes et al. fails to specifically disclose routing codes for assignment are recycled during a user session if the number of users exceeds the routing codes available.

The examiner contends, however that providing recycling of routing codes is well known in the art, the design of most systems would include a pool of temporary routing codes to be recycled so the system can account for any blocking probability, thereby reducing the need to provide a infinite number of routing codes for every device in the system, at the time of invention, it would have been obvious to one of ordinary skill in the art to modify Holmes with

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the teaching of well known art for making the system more efficient which is widely know to be used in the industry.

**Regarding claim 31**, Holmes et al. discloses a apparatus and everything claimed as applied above (see claim 39), however Holmes et al. fails to specifically disclose routing codes for assignment are recycled during a user session if the number of users exceeds the routing codes available.

The examiner contends, however that providing recycling of routing codes is well known in the art, the design of most systems would include a pool of temporary routing codes to be recycled so the system can account for any blocking probability, thereby reducing the need to provide a infinite number of routing codes for every device in the system, at the time of invention, it would have been obvious to one of ordinary skill in the art to modify Holmes with the teaching of well known art for making the system more efficient which is widely know to be used in the industry.

12. Claims 11,22, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes in view of Salmi (U.S. Patent Number 6,947,396) and further in view of MMPEP 2144.06.

**Regarding claim 11**, Holmes et al. discloses as best understood by the examiner in view of the 112 rejection everything claimed as applied above (see claim 10), however Holmes et al. fails to specifically disclose (a) delaying delivery of a message from said second user pending confirmation of said mobile user's interest in receiving said message; (b) and providing sufficient routing codes that recycling of codes is unlikely to be necessary.

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In a similar field of endeavor Salmi discloses a method for filtering electronic information to be transferred to the terminal through a telecommunication connection. In addition Salmi discloses (a) a delaying delivery of a message from said second user pending confirmation of the mobile user's interest in receiving said message (which reads on column 12 lines 43-54).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with delaying delivery of a message from said second user pending confirmation of said mobile user's interest in receiving said message as taught by Salmi for the purpose of minimizing the use and consumption of battery power as well as air time.

In addition, the examiner contends, however that (b) providing sufficient routing codes that recycling of codes is unlikely to be necessary, is extremely well known in the art, the design of most systems would include a large pool of temporary routing codes to allow for a certain amount of blocking probability, thereby reducing the need of recycling the codes, and at the time of invention, it would have been obvious to one of ordinary skill in the art to modify Holmes with the teaching of well known art for making the system more efficient which is widely known to be used in the industry.

**Regarding claim 22**, Holmes et al. discloses as best understood by the examiner in view of the 112 rejection a computer program product and everything claimed as applied above (see claim 21), however Holmes et al. fails to specifically disclose (a) delaying delivery of a message from said second user pending confirmation of said mobile user's interest in receiving said

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message; (b) and providing sufficient routing codes that recycling of codes is unlikely to be necessary.

In a smiliar field of endeavor Salmi discloses a method for filtering electronic information to be transferred to the terminal through a telecommunication connection. In addition Salmi disclose (a) a delaying delivery of a message from said second user pending confirmation of the mobile user's interest in receiving said message (which reads on column 12 lines 43-54).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with delaying delivery of a message from said second user pending confirmation of said mobile user's interest in receiving said message as taught by Salmi for the purpose of minimizing the use and consumption of battery power as well as air time.

In addition, the examiner contends, however that (b) providing sufficient routing codes that recycling of codes is unlikely to be necessary, is extremely well known in the art, the design of most systems would include a large pool of temporary routing codes to allow for a certain amount of blocking probability, thereby reducing the need of recycling the codes, and at the time of invention, it would have been obvious to one of ordinary skill in the art to modify Holmes with the teaching of well known art for making the system more efficient which is widely know to be used in the industry.

**Regarding claim 33**, Holmes et al. discloses as best understood by the examiner in view of the 112 rejection a apparatus and everything claimed as applied above (see claim 39), however Holmes et al. fails to specifically disclose (a) delaying delivery of a message from said second

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user pending confirmation of said mobile user's interest in receiving said message; (b) and providing sufficient routing codes that recycling of codes is unlikely to be necessary.

In a smiliar field of endeavor Salmi discloses a method for filtering electronic information to be transferred to the terminal through a telecommunication connection. In addition Salmi disclose (a) a delaying delivery of a message from said second user pending confirmation of the mobile user's interest in receiving said message (which reads on column 12 lines 43-54).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Holmes et al. with delaying delivery of a message from said second user pending confirmation of said mobile user's interest in receiving said message as taught by Salmi for the purpose of minimizing the use and consumption of battery power as well as air time.

In addition, the examiner contends, however that (b) providing sufficient routing codes that recycling of codes is unlikely to be necessary, is extremely well known in the art, the design of most systems would include a large pool of temporary routing codes to allow for a certain amount of blocking probability, thereby reducing the need of recycling the codes, and at the time of invention, it would have been obvious to one of ordinary skill in the art to modify Holmes with the teaching of well known art for making the system more efficient which is widely know to be used in the industry.

### ***Response to Arguments***

13. Applicant's arguments with respect to claims 4-11, 15-22, 26-39 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEILA B. SMITH whose telephone number is (571)272-7847. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 571-272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sheila B. Smith/  
Examiner, Art Unit 2617  
July 29, 2009

/Dwayne D. Bost/  
Supervisory Patent Examiner,  
Art Unit 2617